

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL K. CARBONE, on behalf of  
himself and all others  
similarly situated,

Plaintiff,

ORDER

15-CV-4919 (JS) (ARL)

-against-

CALIBER HOME LOANS, INC., and U.S.  
BANK TRUST, N.A., as Trustee of  
LSF9 MASTER PARTICIPATION TRUST,

Defendants.

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APPEARANCES

For Plaintiff:

Abraham Kleinman, Esq.  
Kleinman, LLC  
626 RXR Plaza  
Uniondale, NY 11556-0626

Tiffany N. Hardy, Esq.  
Edelman Combs Lattuner & Goodwin, LLC  
20 South Clark St., Ste. 1500  
Chicago, IL 60603

For Defendants:

Caliber Home Loans  
and U.S. Bank Trust

Brian P. Hennessy, Esq.  
David T. Biderman, Esq.  
Frederick Rivera, Esq.  
Manny Joseph Caixeiro, Esq.  
Perkins Coie LLP

SEYBERT, District Judge:

The parties submitted a joint letter (Docket Entry 19)  
seeking to hold Plaintiff's motion for conditional certification  
(Docket Entry 6) in abeyance until after discovery is conducted.

Plaintiff filed a premature motion for class  
certification to avoid having the putative class action claims

mooted by a potential offer of judgment for full relief made pursuant to Federal Rule of Civil Procedure 68. (Pl.'s Mot., Docket Entry 6, ¶ 18.) For the reasons discussed the Court's previous order in Carlin v. Davidson Fink LLP, No. 13-CV-6062, 2014 WL 4826248, at \*3 (E.D.N.Y. Sept. 23, 2014), reconsidered and vacated in part, No. 13-CV-6062, 2015 WL 5794250 (E.D.N.Y. Sept. 30, 2015), Plaintiff's motion for class certification (Docket Entry 6) is DENIED WITHOUT PREJUDICE. The motion may be renewed after Plaintiff obtains the facts necessary to meet his burden of establishing that the requirements set forth in Federal Rule of Civil Procedure 23 have been met.

As requested, the parties are also granted permission to submit a proposed case management schedule within fourteen (14) days from the date of this Order.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated:     October   9  , 2015  
          Central Islip, New York